

BOARD OF PUBLIC WORKS AND SAFETY

APRIL 8th, 2010

Page 1 of 7

Mayor Charles Henderson called the meeting to order at 8:33 a.m.

PRESENT: Board Members Mayor Charles Henderson, Kevin Hoover, and Thom Hord; Deputy Clerk Kathie Fritz; City Attorney Shawna Koons; City Engineer and Director of the Department of Community Development Services Mark Richards.

Mr. Hord moved to accept the regular minutes of March 18th, 2010 as presented. Second by Mr. Hoover. **Vote: Ayes. Motion carries.**

Director of Community Development Services and City Engineer Mark Richards reviewed the following recommendations of Paul Peoni Engineering Division of the Department of Community Development Services:

Featherstone II Lot 103 1049 Heatherwood Drive

Gabe Cabrera, homeowner, appeared regarding the request.

- 1) Allow an encroachment of a fence into the side yard 7.5' wide drainage & utility easement.

This is a fence that is apparently already constructed in the easement. The homeowner has provided approval letters from all utility companies (except Comcast) and the homeowners association. There does not appear to be any storm sewer running through this easement.

Moved by Mr. Hoover, to grant the request pursuant to locating the fence per the plan submitted and subject to the fence being moved or removed and replaced at the owner's expense for any utility work done. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Crooked Bend Section 4 Lot 58 B 1350 Hamilton Drive

Jose Sanchez Teran & Sandra Romero, homeowners, appeared regarding the request.

- 1) Allow an encroachment of a deck with a hot tub into the rear yard 15' wide drainage & utility easement.

The homeowner has provided approval letters from all utility companies including Comcast and the homeowners association. There does not appear to be any storm sewer running through this easement and drainage will not be affected.

Moved by Mr. Hoover to approve the request pursuant to locating the improvements per the plans submitted, subject to the deck with a hot tub being moved or removed and replaced at the owner's expense for any utility work done. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

LA Fitness 540 North State Road 135

Representative Donna Smithers, Northpointe Surveying Inc., appeared regarding the following requests:

- 1) Acknowledge the completion of the private improvements of dirt work, storm sewer and erosion control at the L.A. Fitness site on S.R. 135.
- 2) Release performance bond #718948S from Developers Surety and Indemnity Company in the amount of \$58,035.00 for the installation of the private dirt work, storm sewers and erosion control at the L.A. Fitness site on S.R. 135.
- 3) Release performance bond #718949S from Developers Surety and Indemnity Company in the amount of \$7,723.00 for the installation of the private erosion control at the L.A. Fitness site on S.R. 135.

There has been a final field inspection by Kevin Riddle of the engineering division and the private improvements of dirt work, storm sewer and erosion control appear to have been satisfactorily installed. The City has received acceptable paper as-builts. The

inspection and testing fees are in order. There are revisions/additions needed to the operations and maintenance manuals for the water quality structures. Once the following items are addressed the engineering division recommends that the Board make the motions stated above:

- a) Receipt of final "mylar" as-builts
- b) Receipt of revised operations and maintenance manuals for the two (2) water quality structures.

Moved by Mr. Hoover. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

The Shops @ Meridian Markets 311 South State Road 135

Representative Donna Smithers, Northpointe Surveying Inc., appeared regarding the following requests:

- 1) Acknowledge the completion of the private improvements of dirt work, storm sewer and erosion control at The Shops @ Meridian Markets site on S.R. 135.
- 2) Accept the public improvement of a 60" storm sewer that runs through the property that is located within a drainage easement and carries upstream storm water through The Shops @ Meridian Markets site on S.R. 135.
- 3) Accept a three (3) year maintenance guarantee in the amount of \$31,051.00 for the public improvement of the 60" storm sewer at The Shops @ Meridian Markets site on S.R. 135.
- 4) Release performance bond #719214S from Developers Surety and Indemnity Company in the amount of \$198,232.00 for the installation of the private & public dirt work, storm sewers and erosion control at The Shops @ Meridian Markets site on S.R. 135.
- 5) Release performance bond #719215S from Developers Surety and Indemnity Company in the amount of \$8,752.00 for the installation of the private erosion control at The Shops @ Meridian Markets site on S.R. 135.

There has been a final field inspection by Kevin Riddle of the engineering division and the private improvements of dirt work, storm sewer and erosion control appear to have been satisfactorily installed along with the public storm sewer improvements. The City has received acceptable paper as-builts. The inspection and testing fees are in order. There are revisions/additions needed to the operations and maintenance manuals for the water quality structures. Once the following items are addressed the engineering division recommends that the Board make the motions stated above:

- a) Receipt of final "mylar" as-builts
- b) Receipt of revised operations and maintenance manuals for the two (2) water quality structures.
- c) Receipt of & then review and approval by the engineering division and law department of the three (3) year maintenance guarantee mentioned in #3 above.

Moved by Mr. Hoover. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Precedent South Business Center Section 1 – Block 5 – Lots 5A & 5B

Representative Jeff Smith, Projects Plus, appeared regarding the following request:

- 1) Execute the final plat for Precedent South Business Center, Section One, Block 5, Lots 5A & 5B.

The final plat was reviewed by the engineering division and the required revisions have been made. At this time the engineering division recommends that the Board make the motion stated above.

Moved by Mr. Hoover. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Ashwood Condominiums State Road 135 & Demaree Road

Terry Cleveland, President of the Homeowners Association, requested an extension on the start date of the City's trash removal service because most of the homeowners have private contracts for the rest of 2010. Sanitation Billing Office Manager Arnie Kaptain stated that this request is valid and would be more convenient for everyone. Mr. Hoover moved to delay implementation of the City trash pickup service at the Ashwood Condominiums until at least January 1st 2011, and direct staff to communicate with Ashwood representatives for status updates. Mr. Hord confirmed that Mr. Kaptain would attend the fall Homeowner's Association meeting. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Gene Perkins, Developer and Resident of Ashwood, asked if a building permit is obtained from the City or the County, and when the City would be doing the snow removal, street repairs, and improvements. Mr. Perkins stated that the addition is under the County Sheriffs jurisdiction now, and asked when the addition would be under the jurisdiction of the City Police Department. Mr. Perkins asked when the taxes for services would go into effect and when they would be able to vote. Mayor Charles Henderson asked if this is part of the disputed annexation area. City Attorney Shawna Koons replied that it is a part of the Southwest Annexation. The County has not acknowledged it. The 911 Maps have not been changed, or the property records, or the tax rolls. A letter has been sent to the County but the City has not yet received a response. Mayor Charles Henderson stated that until the County certifies the Southwest Annexation a date cannot be given for specific services. The City Police protection, city owned street repairs, snow removal, and street repairs would begin immediately after certification of the annexation. Mr. Richards stated that he would look into the building permit issue.

Nuisance Complaints

None.

Audience

Kenny Duncan, Street Department, presented quotes for street paint. The apparent low bidder was Ennis Paints \$8.45 per gallon of yellow, \$7.80 per gallon of white; Sherwin Williams \$8.50 per gallon of yellow, \$8.50 per gallon of white; MGI \$9.24 per gallon of yellow, \$9.04 per gallon of white. Mr. Duncan stated that it is the recommendation to accept the bid from Ennis Paints. Mr. Hord moved to approve the bid from Ennis Paints. Second by Mr. Hoover. **Vote: Ayes. Motion carries.**

Mr. Duncan presented quotes for the beads that are put into the paint. The apparent low bidder was MGI for \$18.49 per 15 pound bag; Ennis was \$20.00 per 15 pound bag; and Sherwin Williams was \$24.50 per 15 pound bag. Mr. Hoover moved to accept the bid from MGI for the beads. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Chief Information Officer Rick Jones stated that he had received approval from the Board to terminate the current contracts for the copy machines at the Court. The pricing from Sharp was only good for March and due to the Board's schedule the Mayor signed a new contract. Mr. Jones asked for ratification of the new contract. Moved by Mr. Hoover. Second by Mr. Hord. **Vote: Ayes: Mr. Hoover, and Mr. Hord. Abstain: Mayor Charles Henderson. Motion carries.**

Sanitation Utility Accountant Pat Sherman stated that the City had received a letter from Indianapolis that the sewer rate would be increased. Mr. Sherman asked permission to review Indianapolis' rates to make sure that Greenwood is being charged fairly. Mr. Hoover moved to approve the review of the rates. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

City Attorney Status of Tasks

City Attorney Shawna Koons confirmed that everyone received the Memorandum of Status of Tasks and asked if there were any questions.

City Attorney Shawna Koons presented the following:

Rescission of the March 18, 2010 Approval of Emergency and Non-Emergency Ambulance Transportation Services Agreement with Rural/Metro of Indiana, L.P. and Approval of a revised Emergency and Non-Emergency Ambulance Transportation Services Agreement with Rural/metro of Indiana, L.P.

At the March 18, 2010 meeting, the Board was advised that the current Ambulance Transportation Services Agreement with Rural/Metro of Indiana, L.P. ("Rural Metro") was set to expire April 1, 2010. Fire Chief Sipes met with representatives of Rural Metro and negotiated a replacement agreement in the City of Greenwood's behalf. Changes to the existing terms included a 4-year term instead of 3-year term; Rural Metro's dedication of three (3) ALS units to the Service Area (instead of two (2)); Rural Metro shall provide new ambulance units when a unit reaches 250,000 miles; and the City shall provide uniforms and sweatshirts to Rural Metro personnel. The Board approved that Agreement, and the Mayor signed it in the Board's behalf. However, prior to its submission to Rural/Metro of Indiana, L.P. for signature, Rural Metro contacted Chief Sipes and advised him it had sent the wrong version of the Agreement – the initial Agreement omitted several provisions required by federal regulations. It is necessary for the Board to rescind the approval of the Agreement previously presented, and to approve the revised Agreement. A copy of the revised Agreement, with the federally-required provisions was previously provided to the Board for review and consideration.

Mr. Hoover moved to rescind the approval of the Emergency and Non-Emergency Ambulance Transportation Services Agreement with Rural/Metro of Indiana, L.P. , and to rescind the authorization of the Mayor to execute that Agreement, as presented to the Board March 18th, 2010; and to approve the revised Emergency and Non-Emergency Ambulance Transportation Services Agreement with Rural/Metro of Indiana, L.P. as presented by the Fire Chief and City Attorney, and to authorize the Mayor to execute the revised Agreement in the Board's behalf. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

City of Greenwood, Indiana, acting through the Board of Public Works and Safety v. ESS Prisa II, LLC, Genel Company, Inc., Northern Life Insurance Company, Auditor of Johnson County and Treasurer of Johnson County; Cause No. 41D03-0904-PL-00023

The Appropriation Hearing in this matter was conducted June 2, 2009 at 9:00 a.m.; the Court issued the Order of Appropriation and appointed three appraisers to appraise the subject real state, administering the oath of appraisers and their instructions, and ordering them to file their appraiser's report by July 3, 2009. Defendants Genel Company, Inc. and Northern Life Insurance Co. filed disclaimers of interest in the real estate. The Report of Appraisers was filed June 29, 2009 assessing Defendant ESS Prisa II, LLC's damages as \$9,500. The parties have twenty days from the date the Report was mailed to filed exceptions to the Report and preserve the issue of damages for trial. On July 16, 2009, attorney Joseph Hammes filed his appearance on behalf of Defendant ESS Prisa II, LLC and Landowner's Exceptions to Report of Appraisers and Request for Jury Trial. The parties await notice of the scheduling of this matter from the Court. On August 4, 2009, the Plaintiff deposited the damage award with the Clerk of the Court and filed the Certification of Payment of Damage Award with the Auditor and the Certification for Transfer of Real Estate with the Auditor. The Plaintiff now has the right to go upon Defendant's property and perform its project work. The Court conducted a pre-trial conference in this matter on September 11, 2009 and set trial for June 1, 2010, with the parties ordered to Alternative Dispute Resolution with the report of the mediator, arbitrator or judge to be filed no later than 30 days prior to the trial date or the trial date will be vacated. (Defendant Johnson County is excluded from ADR). On September 14, 2009, Plaintiff filed the parties' Notice of Selection of Mediator with the Court (the parties agreed upon Tom Lemon of the Mediation Group, LLC). On September 29, 2009, Joseph Hammes filed his Motion for Leave to Withdraw his representation of Defendant ESS Prisa II, LLC because the client has failed to communicate with him or pay its legal fees. On October 2, 2009, the Court granted Hammes' Motion, allowing him to withdraw from the case. (On May 1, 2009, the City Attorney entered her Appearance in behalf of

BOARD OF PUBLIC WORKS AND SAFETY

APRIL 8th, 2010

Page 5 of 7

the City of Greenwood and filed a Complaint in Condemnation against the Defendants. The City offered to purchase 0.069 acres of permanent right-of-way, and 0.025 acres of temporary right-of-way, at fair market value as determined by an appraisal, from Defendant ESS Prisa II, LLC that is needed for the Fry Road reconstruction project. Defendant ESS Prisa II, LLC did not accept the offer to purchase so it became necessary for the City to exercise its power of eminent domain and condemn the property).

Defendant ESS PRISA II, LLC tendered a settlement demand in the amount of \$25,500 to the Redevelopment Commission (the amount of the original offer of acquisition in February 2009), and counsel for the Redevelopment Commission contacted the City Attorney on April 6, 2010 and stated the Redevelopment Commission would like to counter-offer the amount of \$19,024 to acquire the right-of-way and resolve this matter. The \$19,024 amount was determined by subtracting from the \$25,500 original offer the condemnation complaint filing fee of \$176 and the court-appointed appraisers' fees of \$6,500 that the Redevelopment Commission has paid to date. Although the Redevelopment Commission is paying the costs of the acquisition and the condemnation case, it does not have eminent domain authority and the action had to be filed by the Board of Public Works and Safety in the City's behalf; therefore, the Board must authorize the acceptance of any settlement demand or any counter-offer of settlement.

Mr. Hoover moved to authorize the City Attorney to tender a counter-offer of settlement in this matter in the amount of \$19,024 to Defendant ESS PRISA II, LLC and to authorize the Mayor to execute the Agreed Judgment and any and all documents necessary to resolve this matter in the Board's behalf. Second by Mr. Hord. Mayor Charles Henderson stated that this is funded by the Redevelopment Commission. **Vote: Ayes. Motion carries.**

City Engineer

Director of Community Development Services and City Engineer Mark Richards reviewed the following recommendations of Paul Peoni Engineering Division of the Department of Community Development Services:

Fairview Place Self Storage (East of S.R. 135 at Fairview Road)

- 1) Accept performance letter-of-credit #S500171 from Fifth Third Bank in the amount of \$126,383.35 for the installation of the dirt work & storm sewer at the Fairview Place Self Storage Site.
- 2) Accept performance letter-of-credit #S500172 from Fifth Third Bank in the amount of \$13,874.30 for the installation of the erosion control at the Fairview Place Self Storage Site.
- 3) Release performance letter-of-credit #S409271 from Fifth Third Bank in the amount of \$126,383.35 for the installation of the dirt work & storm sewer at the Fairview Place Self Storage Site.
- 4) Release performance letter-of-credit #S409272 from Fifth Third Bank in the amount of \$13,874.30 for the installation of the erosion control at the Fairview Place Self Storage Site.

The developer is asking to replace letters-of-credit with the company name "Turtle Creek Management, Inc." (items #3 & #4 above) with letters-of-credit showing the company name as "Fairview Place Self Storage, L.L.C." (items #1 & #2 above).

The dollar amount, improvement shown and the form is correct on the letters-of-credit listed in items #1 & #2 above. At this time, the engineering division recommends that the Board make the motions stated above.

Moved by Mr. Hoover. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

2010 Bituminous Overlay

- 1) Tentative Legal Advertising Dates are April 14th 2010 and April 21st 2010.
- 2) Tentative Bid Opening Date is May 4th 2010.

- 3) Tentative Bid Award Date is May 6th 2010 at the Board of Public Works and Safety Meeting.

The engineering division and street department are asking for the Board to give authorization and approval to advertise and put out to bid.

Moved by Mr. Hord. Second by Mr. Hoover. **Vote: Ayes. Motion carries.**

Tuscany Village, Section One, Subsurface Drainage

- 1) Accept performance bond #5036970 from Bond Safeguard Insurance Company in the amount of \$42,476.00 for the installation of the dirt work & storm sewer (subsurface drainage improvements per take-off sheet for guarantee estimates dated and approved by the engineering division on March 04, 2010).
- 2) Accept performance bond #5036971 from Bond Safeguard Insurance Company in the amount of \$12,071.00 for the installation of the erosion control (subsurface drainage improvements per take-off sheet for guarantee estimates dated and approved by the engineering division on March 04, 2010).

This issue was brought to the BPWS by City Engineer, Mark Richards on March 04, 2010. This involves the alleviation of drainage problems at Tuscany Village, Section One due to the construction of basements and crawl spaces without a proper outlet for sump pumps to disperse water to a storm drainage system.

The BPWS, at its March 04, 2010 meeting, authorized acceptance of these performance guarantees by staff after review and approval by the engineering division and the law department.

The reason for this memorandum is to get the actual bond numbers and dollar amounts into the record, together, at the same time.

The dollar amounts, improvements shown and form of the bonds are correct.

Moved by Mr. Hoover. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Shepherd's Grove, Section Two

- 1) Release three (3) year maintenance bond #5024488 from Bond Safeguard Insurance Company in the amount of \$12,319.78 for the sanitary sewers at Shepherd's Grove, Section Two.

Keith Meier, Sanitation Superintendent, has indicated that there appears to be no problems with the sanitary sewers at Shepherd's Grove, Section Two. At this time the engineering division; with the ok from Keith Meier, recommends that the Board make the motion stated above.

Moved by Mr. Hord. Second by Mr. Hoover. **Vote: Ayes. Motion carries.**

March 4th 2010 Board of Public Works and Safety Minutes

Mr. Richards stated that the minutes of March 4th 2010 needed to be amended to remove "in the amount of \$55,245.00" and add "as per "Section 8 – Payments" of the Indiana Department of Transportation Highway Utility Agreement".

Moved by Mr. Hoover. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

MS4 City Inventory and Pre-Audit Assistance

Wessler Engineering has provided a proposal to the City for Providing engineering consulting assistance in the MS4 storm water management program. The scope of work

BOARD OF PUBLIC WORKS AND SAFETY

APRIL 8th, 2010

Page 7 of 7

includes site compliance evaluations at the DPW Building, Parks Department maintenance and storage building, Police Headquarters Building, Fire Stations, and the Municipal Airport. This assistance is necessary to prepare for the IDEM audit anticipated to be conducted in 2010. In addition, Wessler will prepare Storm Water Pollution Prevention Plans for the facilities other than the airport; if an SWPPP is required to the airport, Wessler will provide a separate cost estimate for the work. Wessler will be compensated for actual man-hours worked and reimbursable expenses, not to exceed \$7,250.00.

Mr. Hoover moved to authorize staff to draft a contract with Wessler Engineering for a cost not to exceed \$7,250.00 to provide services for assistance in MS4 compliance as described in Wessler's proposal dated April 5th 2010, and authorize the Mayor to sign on the Board's behalf. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Human Resources

None.

Director of Operations

None.

Clerk Treasurer

None.

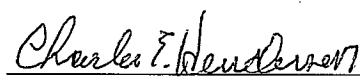
Claims

Mr. Hord moved to accept and approve the claims as presented through April 8th, 2010. Second by Mr. Hoover. **Vote: Ayes. Motion carries.**

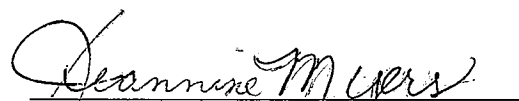
Mayor

Mayor Charles Henderson thanked everyone for their condolences at the passing of his mother.

With no further business, the meeting adjourned at 9:20 a.m.



Mayor Charles Henderson



Clerk Treasurer Jeannine Myers

